

Message Text

SECRET

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ACTION SS-30

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TO SECSTATE WASHDC IMMEDIATE 4708

S E C R E T KINGSTON 1683

EXDIS

PASS TO OPIC

EO 11652: GDS

TAGS: EMIN, PINT, US, JA

SUBJECT: BAUXITE NEGOTIATIONS SITREP 46

1. THE NEGOTIATION OF REVENUE ISSUES BETWEEN THE COMPANIES AND THE GOJ REACHED AN UNSUCCESSFUL CONCLUSION LAST NIGHT AFTER MORE THAN SIX HOURS OF INTENSE NEGOTIATION AT VARIOUS LEVELS AND WITH A SHIFTING CAST OF CHARACTERS BEGINNING AT 5:00 PM YESTERDAY. PM MANLEY MET TWICE ALONE WITH CEOS OF KAISER, ALCOA, AND ALCAN AND ANOTHER FAIRLY LENGTHY MEETING OCCURRED WITH PRINCIPALS ON BOTH SIDES SUPPORTED BY STAFF. IN ADDITION THERE WERE STAFF ONLY MEETINGS IN THE COURSE OF THE EVENING

2. BASIC ISSUE CONTINUED TO BE THE PERCENTAGE OF THE COST OF PRIMARY METAL REPRESENTED BY JAMAICAN BAUXITE AND WHAT THIS SHOULD MEAN IN REVENUES TO THE JAMAICAN GOVERNMENT. BOTH SIDES INDICATED SOME FLEXIBILITY BUT NOT NEARLY ENOUGH TO CLOSE THE GAP AND IN THE END THEY AGREED TO DISAGREE. PM TOLD CEOS THAT HE WOULD MEET WITH THEM AGAIN THIS AFTERNOON TO ANNOUNCE HIS DECISION AND GIVE THEM A PAPER DESCRIBING IT. IMPLICATION WAS THAT THERE WOULD BE NO PUBLIC DISCLOSURE OF THE POSITION UNTIL AFTER HE HAD DONE SO (ALTHOUGH PRESS STORIES YESTERDAY AND AGAIN THIS MORNING INDICATED THAT THE NEGOTIATIONS HAD ENDED WITHOUT INDICATING THE POSITION).

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3. IN ANNOUNCING HIS DECISION TO THE COMPANIES LATE LAST NIGHT PM EMPHASIZED THAT HE REGRETTED IT HAD PROVED IMPOSSIBLE TO REACH A NEGOTIATED SOLUTION AND INDICATED THAT THE NECESSITY TO IMPOSE A TAX FORMULA ON THE INDUSTRY DID NOT CONSTITUTE ANY CHANGE IN THE ATTITUDE OF HIS GOVERNMENT TOWARDS THE BAUXITE COMPANIES NOR ANY CHANGE IN ITS APPROACH OR IDEOLOGY. HE INDICATED THAT THE INDUSTRY CONTINUED TO BE WELCOME IN JAMAICA AND, WITHOUT SAYING SO IN SO MANY WORDS, THAT THE IMPOSITION OF A REVENUE FORMULA WAS NOT THE FIRST STEP TOWARDS NATIONALIZATION. THE ATTITUDE OF OTHER GOVERNMENT REPS DURING LAST EVENING'S LENGTHY NEGOTIATIONS ALSO CONSPICUOUSLY LACKED ANY ELEMENT OF ANIMUS OR BELLICOSITY. IN ADDITION, ATTITUDE OF PM AND OTHERS IN GOJ TOWARDS THE CHARGE AND USG DURING NUMEROUS CONTACTS YESTERDAY WAS WARM AND FRIENDLY IN AN OBVIOUS EFFORT TO AVOID AN IMMEDIATE CONFRONTATION. MORE IN SORROW THAN IN ANGER SEEMED TO BE THE ORDER OF THE DAY

4. NEVERTHELESS IT SHOULD BE CLEAR THAT A CONFRONTATION IS LIKELY SINCE THE COMPANIES FEEL THEY HAVE NO ALTERNATIVE TO MAKING A PUBLIC DISCLOSURE OF THE POSITION LATE TODAY OR TOMORROW BECAUSE OF SEC RELATED PROBELMS AND THEIR RESPONSIBILITY TO THEIR STOCKHOLDERS. IN ADDITION THEY FEEL THEY HAVE NO ALTERNATIVE BUT TO SEEK ARBITRATION BY ICSID AT ONCE. WE HAVE HAD SEVERAL INDICATIONS THAT GOJ WILL NOT ACCEPT ICSID ARBITRATION DESPITE ITS CONTRACTUAL AND TREATY OBLIGATIONS THOUGHT IT MAY ATTEND ICSID HEARINGS AND ARGUE THAT THE ISSUE IS ESSENTIALLY A DOMESTIC TAX MATTER WITHIN THE SOLE JURISDICTION OF THE SOVEREIGN STATE AND NOT SUBJECT TO ICSID ARBITRATION

5. DETAILED REPORTS ON YESTERDAY'S ACTIVITIES INCLUDING CHARGE'S MEETING WITH PM ARE IN PREPARATION AND WILL BE FORWARDED SHORTLY. HEWITT

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